IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.8600/06
Ghanshyam Das Baldua Vs. State of Raj. & Anr.

27.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri J.P. Goyal for petitioner.

Heard learned counsel for the petitioner.

The petitioner has challenged the order dated 6.12.1997 passed by the Inspector under Section 17 of the Child Labour (Prohibition and Regulation) Act, 1986 (for short- `the Act'). A perusal of the said order reveals that that order was passed in terms of the judgment of Hon'ble Supreme Court in M.C. Mehta Vs. State of T.N. & Ors., (1996) 6 SCC 756.

The Inspector directed the

petitioner to pay Rs.20,000/- to Mahipal Singh (child labour) S/o Heera Singh Rawat R/o Kabra who during inspection on the business premises of the petitioner was found to be working with him. Learned counsel for the petitioner argued that neither any notice was given to the petitioner, nor was copy of inspection report provided and in fact no such inspection was carried out on his premises. The petitioner came to know about the order only when he received summons in the criminal case for his prosecution under Section 14 and 16 of the Act on the complaint filed by the Labour Inspector before the Court of ACJM, Beawar. Copy of the criminal complaint has also been placed on record.

A perusal of the impugned order

dated 6.12.1997 reveals that this was an order by which the petitioner was directed to make payment of compensation of Rs.20,000/- to child labour as per the judgment of the Hon'ble Supreme Court. Complaint had to be filed against the petitioner because he did not comply with the order and did not make payment of the compensation. A perusal of the complaint which has been placed on record reveals that such complaint was filed as far as back on 16.4.1998. The learned counsel for the petitioner could not satisfy this Court as to on what date, he received notice of complaint. Although it has been admitted by him that compliance of the order directing payment has been made by him. The basic order which is impugned in this writ petition was passed way back on

6.12.1997 and the compliance for non compliance of that order against the petitioner was also filed on 16.4.1998. This is a matter in which the Labour Inspector under the provisions of the aforesaid Act during the inspection of the business place of the petitioner found one child labour working with the petitioner. At this belated stage, enquiry into the facts whether the inspection in fact was conducted and if conducted, in the presence of the petitioner or further whether the copy of the inspection report was given to the petitioner in the shape of notice, may be not appropriate because the petitioner itself has been filed with enormous delay. Learned counsel for the petitioner argued that petitioner has made payment

of the compensation, therefore, he may not be held responsible for committing any offence. This is a matter which has to be examined by the Court before whom the complaint is pending as to if mere deposit of the compensation, would constitute a mitigating circumstance, therefore, that argument can also to be considered by that Court and not this Court.

In the facts of the case, I am not inclined to entertain the petition. The writ petition is accordingly stands dismissed summarily.

(Mohammad Rafiq),J.

Rs/-